

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT

| | | |
|---------------------------------------|---|--------------------------------|
| POWERHOUSE MARKS, LLC, |) | Civil Action No. 2:24-cv-10021 |
| a Michigan limited liability company, |) | |
| and POWERHOUSE LICENSING, LLC, |) | |
| a Michigan limited liability company, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | COMPLAINT |
| |) | AND |
| POWERHOUSE FITNESS |) | JURY DEMAND |
| TRAINING, INC. |) | |
| a California Corporation, |) | |
| |) | |
| Defendant. |) | |
| |) | |

COMPLAINT AND JURY DEMAND

NOW COME Plaintiffs Powerhouse Marks, LLC (hereafter “Powerhouse Marks”) and Powerhouse Licensing, LLC (hereafter “Powerhouse Licensing”) (collectively “Plaintiffs”) by and through their undersigned attorneys, and for their Complaint against Defendant Powerhouse Fitness Training, Inc. (hereafter “Powerhouse Fitness” or “Defendant”) state as follows:

JURISDICTION AND VENUE

1. This is an action for trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114; unfair competition, false designation of

origin, false representation, and false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125; trademark infringement and unfair competition under the Michigan Common Law.

2. This Court has jurisdiction under 15 U.S.C. §1121; 28 U.S.C. §§1331, 1332(a), and 1338.

3. Venue is proper in this district pursuant to 28 U.S.C. §1391(b).

PARTIES

4. Plaintiff Powerhouse Marks is a Michigan limited liability company with its principal place of business located at 44125 West 12 Mile Road, Suite E123, City of Novi, County of Oakland, State of Michigan 48377.

5. Plaintiff Powerhouse Licensing is a Michigan limited liability company with its principal place of business located at 44125 West 12 Mile Road, Suite E123, City of Novi, County of Oakland, State of Michigan 48377.

6. Defendant Powerhouse Fitness is, upon information and belief, a California corporation having a principal place of business at 1019 S. Stimson, City of Industry, CA 91745, and is operating a physical fitness training, body building, and exercise facility under the name “Powerhouse Fitness Training” at the following locations: 1019 S. Stimson Ave., City of Industry, CA 91745, 1750 E. Huntington Dr., Duarte, CA 91010, and 530 W. La Habra Blvd., La Habra, CA 90631.

BACKGROUND FACTS

7. Powerhouse Marks owns several trademark registrations, including, but not limited to, those with the words and/or logos POWERHOUSE, POWERHOUSE GYM, and POWERHOUSE FX (collectively “the POWERHOUSE marks”). Powerhouse Marks has entered into a master licensing agreement with Powerhouse Licensing to license the POWERHOUSE marks to third parties. Powerhouse Licensing licenses the POWERHOUSE marks for use through various licensed entities. The licensed entities use the POWERHOUSE marks in connection with, *inter alia*, body building, fitness and health facility services; providing facilities for physical fitness training, for body building, and for exercise; physical fitness studio services, namely, providing group exercise and fitness classes; clothing and related products and accessories; athletic training attire; providing facilities for physical exercise, fitness, and workout for groups of people and individuals. Furthermore, Powerhouse Marks offers for sale and sells certain clothing and related products and accessories via a website that Powerhouse Marks maintains. And Powerhouse Marks markets and promotes its services and products via certain social media outlets including Facebook.

8. By continuous and substantial advertising, marketing, use, and promotion of the POWERHOUSE marks to date, Plaintiffs have acquired value, name recognition, and goodwill in the POWERHOUSE marks.

9. Powerhouse Marks is the owner of the POWERHOUSE mark registered on June 21, 1994, Registration No. 1,840,536 (the '536 Registration), on the principal register in connection with: publications; namely, health and fitness magazines in international class 16; clothing and related products and accessories, namely, shirts, pants, sweat suits, shorts, leotards, gloves, tank tops, and sweat bands in international class 25; and body building, fitness and health facility services in international class 41.

POWERHOUSE

A copy of the '536 Registration is attached to this Complaint as Exhibit A and is incorporated by reference.

10. The '536 Registration has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

11. Plaintiffs have been using the POWERHOUSE mark of the '536 Registration in connection with body building and fitness and health facility services in commerce since at least 1977, and in connection with clothing and related products and accessories, namely, shirts, pants, sweat suits, shorts, leotards, gloves, tank tops, and sweat bands in commerce since at least 1979.

12. Powerhouse Marks is the owner of the POWERHOUSE GYM mark registered on October 4, 2016, Registration No. 5,053,522 (the '522 Registration),

on the principal register in connection with providing facilities for physical fitness training, for body building, and for exercise in international class 41.

POWERHOUSE GYM

A copy of the '522 Registration is attached to this Complaint as Exhibit B and is incorporated by reference.

13. Plaintiffs have been using the POWERHOUSE GYM mark of the '522 Registration in connection with, *inter alia*, providing facilities for physical fitness training, for body building, and for exercise in commerce since at least 1974.

14. Powerhouse Marks is the owner of the POWERHOUSE GYM and design mark registered on November 3, 2015, Registration No. 4,843,988 (the '988 Registration), on the principal register in connection with providing facilities for physical fitness training, for body building, and for exercise; physical fitness studio services, namely, providing group exercise and fitness classes in international class 41.



A copy of the '988 Registration is attached to this Complaint as Exhibit C and is incorporated by reference.

15. The '988 Registration has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

16. Plaintiffs have been using the POWERHOUSE GYM and design mark of the '988 Registration in connection with, *inter alia*, body building services in commerce since at least 1977.

17. Powerhouse Marks is the owner of the POWERHOUSE FX mark registered on October 27, 2015, Registration No. 4,839,908 (the '908 Registration), on the principal register in connection with providing facilities for physical exercise, fitness, and workout for groups of people and individuals in international class 41.

POWERHOUSE FX

A copy of the '908 Registration is attached to this Complaint as Exhibit D and is incorporated by reference.

18. Plaintiffs have been using the POWERHOUSE FX mark of the '908 Registration in connection with, *inter alia*, providing facilities for physical exercise, fitness, and workout for groups of people and individuals in commerce since at least 2013.

19. The '908 Registration has become uncontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

20. Powerhouse Marks is the owner of the POWERHOUSE GYM and design mark registered on October 25, 1983, Registration No. 1,255,385 (the '385 Registration), on the principal register in connection with athletic training attire—namely, t-shirts, sweatshirts, tank tops, warm up suits, jogging suits, shorts, and caps in international class 25.



A copy of the '385 Registration is attached to this Complaint as Exhibit E and is incorporated by reference.

21. The '385 Registration has become uncontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

22. Plaintiffs have been using the POWERHOUSE GYM and design mark of the '385 Registration in connection with, *inter alia*, athletic training attire—namely, t-shirts, sweatshirts, tank tops, warm up suits, jogging suits, shorts, and caps in commerce since at least 1979.

23. Powerhouse Marks is the owner of the POWERHOUSE GYM mark registered on October 4, 2016, Registration No. 5,053,526 (the '526 Registration), on the principal register in connection with clothing, namely, sweatshirts, tank tops, t-shirts, shorts, hats, and pants in international class 25.

POWERHOUSE GYM

A copy of the '526 Registration is attached to this Complaint as Exhibit F and is incorporated by reference.

24. Plaintiffs have been using the POWERHOUSE GYM mark of the '526 Registration in connection with, *inter alia*, clothing, namely, sweatshirts, tank tops, t-shirts, shorts, hats, and pants in commerce since at least 1974.

25. The '526 Registration has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

26. Defendant Powerhouse Fitness operates brick and mortar physical fitness training, body building, and exercise facilities under the name "Powerhouse Fitness Training" and also uses barbell design logo at the location of 1019 S. Stimson Ave., City of Industry, CA 91745, 1750 E. Huntington Dr., Duarte, CA 91010, and 530 W. La Habra Blvd., La Habra, CA 90631

27. On information and belief, Defendant Powerhouse Fitness training through its Powerhouse Fitness Training facility offers for sale and sells clothing, such as t-shirts.

28. Defendant Powerhouse Fitness maintains a website (teampowerhousefitness.com) that displays the name “Powerhouse Fitness” and a barbell logo in connection with promoting and selling the services of providing physical fitness training, body building, and exercise facility. Exhibit G. The website is fully interactive — a free session can be obtained by entering and inputting a guest’s name, email address, and phone number, among other information to be entered and inputted. Further, clothing is offered for sale via the website with the name Powerhouse Fitness name and the barbel design logo. A screenshot of the clothing-purchase portion of the website is attached as Exhibit H and incorporated by reference. A screenshot of the booking portion of the website is attached as Exhibit I and is incorporated by reference. The guest pass can be obtained from anywhere in the country including in the Eastern District of Michigan, and the clothing can be purchased from anywhere in the country including in the Eastern District of Michigan.

29. Defendant Powerhouse Fitness promotes its “Powerhouse Gym” facility on social media outlets including on Facebook. <https://www.facebook.com/PowerhouseFitnessTraining>. The promotion on

Facebook displays the name “Powerhouse Fitness” and logo in connection with the services of providing a physical fitness training, body building, and exercise facility. A screenshot of the Facebook promotion is attached as Exhibit J and incorporated by reference.

30. All of the Defendant Powerhouse Fitness’ uses set forth above are without license and without authorization. On information and belief, all of the Defendant Powerhouse Fitness’s uses set forth above are being committed knowingly and willingly without license and without authorization.

31. Defendant Powerhouse Fitness’s uses of the “Powerhouse Fitness” name and barbell design logo set forth above, is continuing to cause, and is likely to cause confusion in the marketplace.

COUNT I

Federal Trademark Infringement Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114 Infringement of The ’536 Registration

32. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 31 of this Complaint as if fully set forth herein.

33. Defendant Powerhouse Fitness’s use of POWERHOUSE FITNESS in interstate commerce is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness’s goods and

services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

34. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

35. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

36. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '536 Registration is willful and deliberate.

COUNT II

**Federal Trademark Infringement
Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114
Infringement of The '522 Registration**

37. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 36 of this Complaint as if fully set forth herein.

38. Defendant Powerhouse Fitness's use of POWERHOUSE FITNESS in interstate commerce is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness's goods and

services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

39. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

40. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

41. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '522 Registration is willful and deliberate.

COUNT III

Federal Trademark Infringement Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114 Infringement of The '988 Registration

42. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 41 of this Complaint as if fully set forth herein.

43. Defendant Powerhouse Fitness's use of POWERHOUSE FITNESS and barbell design logo in interstate commerce is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant

Powerhouse Fitness's goods and services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

44. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

45. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

46. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '988 Registration is willful and deliberate.

COUNT IV

Federal Trademark Infringement Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114 Infringement of The '908 Registration

47. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 46 of this Complaint as if fully set forth herein.

48. Defendant Powerhouse Fitness's use of Powerhouse Gym in interstate commerce is confusingly similar to the mark that is the subject of the '908

Registration, and Defendant Powerhouse Fitness has done so without the consent of Plaintiffs.

49. Defendant Powerhouse Fitness's use of Powerhouse Gym is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness's goods and services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

50. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

51. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

52. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '908 Registration is willful and deliberate.

COUNT V

**Federal Trademark Infringement
Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114
Infringement of The '385 Registration**

53. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 52 of this Complaint as if fully set forth herein.

54. Defendant Powerhouse Fitness's use of Powerhouse Fitness and muscleman design logo in interstate commerce is confusingly similar to the mark that is the subject of the '385 Registration, and Defendant Powerhouse Fitness has done so without the consent of Plaintiffs.

55. Defendant Powerhouse Fitness's use of Powerhouse Gym and muscleman design logo is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness's goods and services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

56. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

57. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing

ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

58. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '385 Registration is willful and deliberate.

COUNT VI

Federal Trademark Infringement Under Section 32(a) Of The Lanham Act, 15 U.S.C. §1114 Infringement of The '526 Registration

59. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 58 of this Complaint as if fully set forth herein.

60. Defendant Powerhouse Fitness's use of Powerhouse Gym in interstate commerce is confusingly similar to the mark that is the subject of the '526 Registration, and Defendant Powerhouse Fitness has done so without the consent of Plaintiffs.

61. Defendant Powerhouse Fitness's use of Powerhouse Gym is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness's goods and services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

62. Defendant Powerhouse Fitness's actions constitute trademark infringement in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114.

63. Defendant Powerhouse Fitness's trademark infringement has caused and will continue to cause Plaintiffs to suffer damage to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

64. Upon information and belief, Defendant Powerhouse Fitness's infringement of the mark of the '526 Registration is willful and deliberate.

COUNT VII

Federal Unfair Competition, False Designation Of Origin, False Representation, And False Advertising Under Section 43(a) Of The Lanham Act, 15 U.S.C. §1125(a)

65. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 64 of this Complaint as if fully set forth herein.

66. Defendant Powerhouse Fitness has used Powerhouse Gym and muscleman design logo in interstate commerce without the consent of Plaintiffs.

67. Defendant Powerhouse Fitness's use of Powerhouse Gym and muscleman design logo is likely to cause confusion, to cause mistake, and/or to deceive purchasers as to the source of Defendant Powerhouse Fitness's goods and services or as to Defendant Powerhouse Fitness's affiliation, connection, approval, or association with Plaintiffs.

68. Defendant Powerhouse Fitness's actions constitute unfair competition, false designation of origin, false representation, and false advertising in connection with products and services distributed in interstate commerce in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

69. Defendant Powerhouse Fitness's unfair competition has caused and will continue to cause Plaintiffs to suffer damages to their businesses, reputations, goodwill, profits, and the strength of their trademarks, and is causing ongoing irreparable harm to Plaintiffs for which there is no adequate remedy at law.

70. Upon information and belief, Defendant Powerhouse Fitness's actions constituting unfair competition, false designation of origin, false representation, and false advertising are willful and deliberate.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs Powerhouse Marks, LLC and Powerhouse Licensing, LLC respectfully requests that this Honorable Court:

- A. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '536 trademark registration in violation of 15 U.S.C. § 1114;
- B. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '522 trademark registration in violation of 15 U.S.C. § 1114;
- C. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '988 trademark registration in violation of 15 U.S.C. § 1114;
- D. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '908 trademark registration in violation of 15 U.S.C. § 1114;
- E. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '385 trademark registration in violation of 15 U.S.C. § 1114;

F. Finds Powerhouse Fitness's use in commerce of a reproduction, copy and/or colorable imitation of Plaintiffs' mark infringes the '526 trademark registration in violation of 15 U.S.C. § 1114;

G. Finds Powerhouse Fitness's in commerce of reproductions, copies and/or colorable imitations of the Plaintiffs' marks infringes Plaintiff's marks in violation of 15 U.S.C. § 1125(a).

H. Awards Plaintiffs all profits gained by Powerhouse Fitness as a result of Powerhouse Fitness's trademark infringement and false advertising, increased to an amount this Court deems just, pursuant 15 U.S.C. § 1117;

I. Awards Plaintiffs actual damages sustained as a result of Powerhouse Fitness's trademark infringement and false advertising, increased up to three times to an amount this Court deems just, pursuant 15 U.S.C. § 1117;

J. Awards Plaintiffs their costs and any additional damages to which Plaintiffs are entitled as a result of Powerhouse Fitness's infringement and false advertising;

K. Finds this case to be exceptional and awards Plaintiffs their reasonable attorney fees pursuant 15 U.S.C. § 1117;

L. Orders Powerhouse Fitness and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation

with it, be preliminarily and permanently enjoined from infringing each and every one of Plaintiffs' '536, '522, '988, '908, '385, and '526 trademark registrations;

M. Orders Powerhouse Fitness to recall from any distributors, shippers, resellers, retailers, or wholesalers any and all advertising, products, packaging or any other items that infringe each and every one of Plaintiffs' '536, '522, '988, '908, '385, and '526 trademark registrations;

N. Orders Powerhouse Fitness to deliver to Plaintiffs any and all advertising, products, packaging, or any other items that infringe each and every one of Plaintiffs' '536, '522, '988, '908, '385, and '526 trademark registrations;

O. Awards Plaintiffs costs, pre-judgment and post-judgment interest at the maximum allowable rate

P. Awards Plaintiff such further relief as the Court deems just and proper.

Respectfully submitted,

by /s/ Richard W. Hoffmann
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*Attorneys for Plaintiffs Powerhouse Marks,
LLC and Powerhouse Licensing, LLC*

Date: January 4, 2024

JURY DEMAND

Plaintiffs Powerhouse Marks, LLC and Powerhouse Licensing, LLC, hereby demand a trial by jury on all issues so triable.

Respectfully submitted,

by /s/Richard W. Hoffmann
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LLC and Powerhouse Licensing, LLC*

Date: January 4, 2024